

STATE OF NEW MEXICO  
ENERGY, MINERALS, AND NATURAL RESOURCES DEPARTMENT  
OIL CONSERVATION COMMISSION

Application of New Mexico Oil Conservation Division to consider proposed rules to regulate the venting and flaring of natural gas from oil and natural gas production and gathering facilities

CASE NO. 21528

REPORTER'S TRANSCRIPT OF PROCEEDINGS

COMMISSION HEARING

WEDNESDAY, DECEMBER 9, 2020

This matter came on for hearing before the New Mexico Oil Conservation Commission, on Wednesday, December 9, 2020 Viz Webex Virtual Meeting Platform

MEMBERS PRESENT:

ADRIENNE SANDOVAL: Oil Conservation Division Chair  
THOMAS ENGLER: Designee, ENMRD  
JORDAN KESSLER: Designee New Mexico State Land Office

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1 (Time noted 9:10 a.m.)

2 COMMISSION CHAIR SANDOVAL: All right. Moving  
3 on to Agenda item No. 4, Approval of the Scheduling Order  
4 in Case No. 21528: Application of the New Mexico Oil  
5 Conservation Division to consider proposed rules to  
6 regulate the venting and flaring of natural gas for oil  
7 and natural production and gathering facilities.

8 Before we do an approval of this, I would  
9 like to just open it up to parties who have entered  
10 appearances on this, and see if they have any brief  
11 statements regarding the scheduling order.

12 I will start with the Oil Conservation  
13 Division.

14 Mr. Ames, do you have any statements  
15 regarding the scheduling order?

16 MR. AMES: Madam Chair, members of the  
17 commission, good morning. My name is Eric Ames, counsel  
18 with the Office of General Counsel, Energy, Minerals and  
19 Natural Resources Department, on behalf of OCD.

20 The Scheduling Order reflects OCD's  
21 understanding of the agreement reached between the parties  
22 following the Commission's last meeting. Thank you.

23 COMMISSION CHAIR SANDOVAL: Thank you, Mr. Ames.

24 Mr. Feldewert, do you have anything to say  
25 on the scheduling order?

1 MR. FELDEWERT: No, Madam Chairman. I am  
2 (inaudible)

3 (Note: Reporter interruption.)

4 COMMISSION CHAIR SANDOVAL: Mr. Feldewert, you  
5 may want to turn your video off and try again.

6 MR. FELDEWERT: Can you hear me better now?

7 COMMISSION CHAIR SANDOVAL: Yeah, that's better.

8 MR. FELDEWERT: I apologize. On behalf of New  
9 Mexico Oil and Gas Association I don't have any other  
10 comments on the Scheduling Order. I think we -- from just  
11 the format of what's happening today, I think a two-week  
12 hearing like this is going to be a challenge, but we'll  
13 give it a shot.

14 COMMISSION CHAIR SANDOVAL: Thank you, Mr.  
15 Feldewert.

16 Ms. Fox, do you have any statements  
17 regarding the Scheduling Order?

18 MS. FOX: No, I don't. And I'd like to thank  
19 counsel and counsel for the Commission for working through  
20 some issues we initially had with the original Amended  
21 Order. We really appreciate everybody's efforts in that  
22 regard to get to a Procedural Order we all agree with.

23 COMMISSION CHAIR SANDOVAL: Thank you, Ms. Fox.

24 Commissioners, do you -- have you reviewed  
25 the Order and do you have any questions, changes, et

1     cetera, on it?

2                 COMMISSIONER ENGLER:   This is Tom Engler.   I  
3     have reviewed the Order.   I have no questions.

4                 COMMISSIONER KESSLER:   Commission Chair, I have  
5     also reviewed the Order and believe that it accurately  
6     reflects what we have (inaudible).

7                 COMMISSION CHAIR SANDOVAL:   Okay.   Is there a  
8     motion to adopt the Scheduling Order?

9                 COMMISSIONER ENGLER:   This is Tom Engler.   I  
10    move to adopt the Scheduling Order.

11                THE SPECIAL MASTER:   Is there a second?

12                COMMISSIONER KESSLER:   I second.

13                COMMISSION CHAIR SANDOVAL:   Mr. Moander, would  
14    you do a roll call vote.

15                MR. MOANDER:   Yes.

16                         Chair Sandoval.

17                COMMISSION CHAIR SANDOVAL:   Approved.

18                MR. MOANDER:   Member Engler.

19                COMMISSIONER ENGLER:   Approved.

20                MR. MOANDER:   Member Kessler.

21                COMMISSIONER KESSLER:   Approved.

22                MR. MOANDER:   The Motion passes unanimously.

23                MR. FELDEWERT:   Madam Chair, this is Michael  
24    Feldewert.   We have one, I guess, question.

25                         I just saw that in the file there is an

1 Amended Procedural Order that was issued on November 19th.

2 Is that what we're talking about today?

3 MR. MOANDER: This is Chris Moander, Counsel.

4 I had this question asked by another party,

5 and yes, that's correct. It's the Amended -- the last

6 version that everybody saw.

7 MR. FELDEWERT: Okay. And I believe it's in the

8 file AS R21540-A.

9 COMMISSION CHAIR SANDOVAL: Correct.

10 MR. FELDEWERT: Okay. Thank you.

11 COMMISSION CHAIR SANDOVAL: I believe it's

12 also -- I just pulled it up, and it's posted on OCD's

13 website under the Outreach and Public Engagement tab.

14 All right.

15 MS. FOX: Madam Chair?

16 Madam Chair, I'm sorry. I might just note

17 to you all, you probably know this, but the email

18 address -- for Ms. Davidson two email addresses are given,

19 and her personal email address works but when I filed

20 another Entry of Appearance this week the OCC email still

21 did not work. So I'd just like to note that because it is

22 in the Procedural Order I'm worried that people are going

23 to be using that email address to submit public comment,

24 and, you know, may be only using that one and not the

25 personal email. And so maybe I think it would be good if

1     that were a working email.

2                     That's all.

3                     COMMISSION CHAIR SANDOVAL:   Okay.   We can look  
4     into that.   I don't think we were aware that there were  
5     issues with the email.   Thank you for bringing that up.

6                     MS. FOX:   Madam Chair, I filed a pleading this  
7     week and got a bounce back on that email address, as I  
8     have previously when I have filed pleadings.

9                     COMMISSION CHAIR SANDOVAL:   Okay.   Good to know.  
10    Thank you.

11                    MR. MOANDER:   Madam Chair, may I ask Ms. Fox to  
12    clarify which address she was sending email to for the  
13    OCC?

14                    MS. FOX: Well, both the addresses that are in  
15    the Procedural Order.   Florene.davidson@state.nm.us, that  
16    works; and occ.hearings@state.nm.us.

17                    And I had a discussion with Ms. Davidson  
18    about this before my first filing of an Entry of  
19    Appearance, and she had noted that occ.hearings email  
20    address may not work.   And it still has not.

21                    COMMISSION CHAIR SANDOVAL:   Okay.   We can check  
22    in with our I.T.   I don't think I was aware of that, at  
23    least, so we will make sure to get that working.   Thank  
24    you for bringing that up.

25                    MR. AMES:   Ms. Sandoval, I want to clarify one

1     thing: The legal notice uses Ms. Davidson's state email  
2     address throughout. So I believe the legal notice is  
3     fine. I think the Scheduling Order may need to be  
4     adjusted.

5                 COMMISSION CHAIR SANDOVAL: Mr. Moander, what  
6     would be the process if we just approved that?

7                 MR. MOANDER: That -- I suppose there could be a  
8     delegation to you to sign off on a Second Amended version  
9     in this instance. I think that would be acceptable since  
10    this is going to be a scrivener's issue rather than a  
11    substantive change -- unless someone disagrees with that.  
12    I mean, I'd be willing to hear a counter position.

13                So in that instance, we could do that.

14                Otherwise we end up having to go back  
15    through this again and botching the hearing, which I  
16    absolutely want to avoid almost at any cost to be able to  
17    get this done.

18                So I think that's acceptable if the  
19    Commission will designate to you the ability to approve  
20    the Order modified to -- or delete or remove any reference  
21    to the OCC Hearings Order -- or remove that reference  
22    within the Order.

23                I think that should be sound.

24                COMMISSION CHAIR SANDOVAL: We have another  
25    email address, as well. It's ocd.hearings, and I know

1     that that one is currently working. So it may be  
2     either -- we either, 1, need to get the OCC working; 2,  
3     just delete it out of there; or 3, the reference to  
4     ocdhearings.

5                     Because what I would like to avoid is the  
6     State inboxes have very little space in them, and I'm  
7     afraid that Ms. Davidson's inbox is going to explode  
8     potentially with all the comments. So we were trying to  
9     get them into a place that won't have problems.

10                    MR. MOANDER: Okay. So just to clarify, the  
11     Commission will want to substitute -- or I guess it would  
12     be Chair Sandoval. You want to substitute  
13     ocd.hearings@state.nm.us for occ.hearings@state.nm.us.

14                    COMMISSION CHAIR SANDOVAL: I think -- I mean I  
15     would prefer to try to get it working and not hassle the  
16     Scheduling Order. Is there a way to give -- to delegate,  
17     I guess me, authority to just make either one of those  
18     changes. Either -- or maybe, you know, no change at all  
19     if we get it working, or to delete it, or modify it.

20                    Can we make it that broad so that we can  
21     make that change?

22                    MR. MOANDER: The issue here is the hearing  
23     date, you've got that set. And we are sort of under a 30-  
24     -- well, I think we're under -- yeah, we're under the 30  
25     days here. So since it's not substantive -- you know,

1    what I wouldn't advise is to let this linger, and the  
2    concern would be if there's going to be a bunch of I.T.  
3    efforts to try to get this inbox open or working, how long  
4    is that going to take versus either deletion or inserting  
5    a known, workable email address.

6                   I think that's the issue. And if there's a  
7    timing matter, it would seem to be more prudent to just do  
8    a substitution or a deletion.

9                   COMMISSION CHAIR SANDOVAL: Okay. That's fine.  
10   Let's just do either a substitution or deletion.

11                  MR. MOANDER: The issue, then, is that --

12                  MS. MALAVE: There's --

13                  MR. MOANDER: Was that Sally?

14                  MS. MALAVE: Yes. I was going to say there  
15   really isn't any need for additional discussion at this  
16   point. You're going to allow Commissioner Kessler  
17   delegate the authority to make the modifications that are  
18   necessary to ensure that the public has the ability to  
19   file pleadings, whether it's Florene's or any other email.

20                  I would note that the public notice says  
21   Florene Davidson's email only, and so I would -- at this  
22   point in time I would say stick with that and possibly  
23   have I.T. deal with, you know, moving things. You know,  
24   monitoring that email for purposes of ensuring that  
25   there's space.

1 COMMISSION CHAIR SANDOVAL: Okay.

2 COMMISSIONER KESSLER: I make a motion  
3 authorizing Director Sandoval to make the appropriate  
4 changes, as discussed, and modify the Order to correct or  
5 eliminate, as appropriate, the email address.

6 COMMISSIONER ENGLER: This is Tom Engler. I  
7 second Commissioner Kessler's motion.

8 COMMISSION CHAIR SANDOVAL: Mr. Moander, would  
9 you do a roll call vote, please.

10 MR. MOANDER: Yes.

11 Chair Sandoval.

12 COMMISSION CHAIR SANDOVAL: I approve.

13 MR. MOANDER: Commissioner Engler:

14 COMMISSIONER ENGLER: Approved.

15 MR. MOANDER: Member Kessler?

16 COMMISSIONER KESSLER: Approved.

17 MR. MOANDER: The motion to grant the Chair  
18 authority to make necessary modifications to the  
19 Scheduling Order so the public can comment, as well as  
20 pleadings can be properly filed, is passed unanimously.

21 Just so -- for the sake of clarity on this,  
22 I will get on this as soon as the hearing's over so we get  
23 this done. So we'll get this done today.

24 COMMISSION CHAIR SANDOVAL: Okay. Thank you.

25 (Time noted 10:19 a.m.)

1     STATE OF NEW MEXICO             )  
2   : SS  
3     COUNTY OF TAOS                 )

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5   REPORTER'S CERTIFICATE

6                     I, MARY THERESE MACFARLANE, New Mexico Reporter  
7     CCR No. 122, DO HEREBY CERTIFY that on Wednesday,  
8     December 9, 2020, the proceedings in the above-captioned  
9     matter were taken before me; that I did report in  
10    stenographic shorthand the proceedings set forth herein,  
11    and the foregoing pages are a true and correct  
12    transcription to the best of my ability and control.

13                    I FURTHER CERTIFY that I am neither employed by  
14    nor related to nor contracted with (unless excepted by the  
15    rules) any of the parties or attorneys in this case, and  
16    that I have no interest whatsoever in the final  
17    disposition of this case in any court.

18

/s/ Mary Macfarlane

19

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